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Attorneys for Plaintiff,
HUEDELL FREEMAN

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

HUEDELL FREEMAN,
Plaintiff,
vs.
CITY OF ROHNERT PARK, a
government agency; ROHNERT PARK
DEPARTMENT OF PUBLIC SAFETY; a
government agency, BRANDON "JACY"
TATUM, an individual; JOSEPH
HUFFAKER, an individual; DAVID
SUTTER, an individual; BRIAN
MASTERSON an individual; and DOES
1-25 inclusive,
Defendants.

CASE NO.
UNLIMITED CIVIL CASE

**COMPLAINT FOR VIOLATIONS OF
CIVIL RIGHTS AND FOR DAMAGES
AND INJUNCTIVE RELIEF**

JURY TRIAL DEMANDED

JURISDICTION AND VENUE

1. This action arises under Title 42 of the United States Code section 1983, and the Fourth, Fifth, and Fourteenth Amendments of the United States Constitution.

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1 Jurisdiction is conferred upon the Court by Title 28 of the United States Code sections
2 1331, and 1343.

3 2. Venue is proper in this District pursuant to Title 28 of the United States
4 Code section 1391(b)(2) because the Northern District of California is the judicial district
5 in which a substantial part of the events or omissions giving rise to the claim occurred
6 and in which the parties to this litigation reside.

7 3. On June 27, 2017, pursuant to California Government Code section 910,
8 Plaintiff timely filed a claim for damages against the City of Rohnert Park. (**Exhibit A.**)
9 On July 25, 2017, the City of Rohnert Park denied the claim. (**Exhibit B.**)

10 **PARTIES**

11 4. Plaintiff HUEDELL FREEMAN (hereinafter "Plaintiff") presently is, and at
12 all times herein mentioned was, a resident of Mendocino County, California, and a citizen
13 of the United States.

14 5. Defendant, CITY OF ROHNERT PARK (hereinafter "City") is a
15 governmental entity, duly organized and existing under the laws of the State of California.

16 6. Defendant, ROHNERT PARK DEPARTMENT OF PUBLIC SAFETY
17 (hereinafter "RPDPS"), is and was, at all times mentioned herein, a municipal entity duly
18 organized and existing under the laws of the State of California.

19 7. Defendants BRANDON "JACY" TATUM (hereinafter "Tatum"), BRIAN
20 MASTERSON (hereinafter "Masterson"), JOSEPH HUFFAKER (hereinafter "Huffaker")
21 and DAVID SUTTER (hereinafter "Sutter") are, or at the time of the events herein were,
22 employed by Defendants City and RPDPS and are sued in their individual capacities. At
23 all times referenced herein Defendant Masterson was the Chief of RPDPS. In engaging
24 in the conduct described herein, said Defendants acted under color of law and in the
25 course and scope of their employment by Defendants City and RPDPS.

26 8. Plaintiff is ignorant of the true names and/or capacities of Defendants sued
27 herein as Does 1 through 25, inclusive, and therefore sues such Defendants by fictitious
28 names. Plaintiff is informed and believes that DOES 1 through 25, and each of them,

were responsible in some manner for the acts or omissions alleged herein. Plaintiff will seek leave to amend this complaint to add their true names and capacities when they have been ascertained.

9. In doing the acts and/or omissions alleged herein, Defendants, and each of them, acted under color of authority and/or under color of state law, and in concert with each other.

10. Defendants Tatum, Huffaker, Sutter and Does 1 through 25 conspired to achieve a common goal and/or acted in concert to achieve said goal. In doing the acts and omissions alleged herein, Defendants, and each of them, conspired and/or acted in furtherance of the conspiracy to a) unlawfully detain and stop Plaintiff and seize his property, and b) deprive Plaintiff of his property without due process of law and through the outrageous abuse of police powers.

FACTUAL BACKGROUND

11. On December 29, 2016, at approximately 1:40 p.m. Sergeant Brandon "Jacy" Tatum and Officer Joseph Huffaker were "on duty" traveling on Highway 101 near Cloverdale in a marked RPDPS patrol vehicle. Cloverdale is approximately 40 miles north of Rohnert Park and well outside the jurisdiction of RPDPS. (Incident Report attached as **Exhibit C.**)

12. Plaintiff is and was, at all times material to this complaint, properly licensed in Mendocino County to cultivate and possess marijuana as part owner of a dispensary in Mendocino County. He also is and was, at all times material to this complaint, a contributing member of the Higher Path dispensary in Sherman Oaks, in the County of Los Angeles.

13. At the time of his detention, Plaintiff had just begun the lengthy journey south to deliver approximately forty-seven pounds of packaged marijuana to the Higher Path dispensary in Southern California. He was traveling in a rental car with the marijuana appropriately packaged, sealed, and stored in the trunk.

1 14. Plaintiff was traveling southbound on Highway 101 while Defendants
2 Tatum and Huffaker were traveling northbound. Defendant Huffaker claimed that he saw
3 Plaintiff's right tires briefly touch the fog-line twice and that, on that basis, he and
4 Defendant Tatum decided to conduct an enforcement stop based on a violation of
5 Vehicle Code section 21658(a), failure to maintain lane. After they passed Plaintiff
6 traveling in the opposite direction, Defendants made an abrupt U-turn, crossing the wide
7 grassy median onto the southbound roadway. They immediately activated their lights,
8 and initiated a traffic stop near the town of Asti, California. (**Exhibit C**)

9 15. Plaintiff's tires did not touch the fog-line as reported. Even if they had, such
10 an act is not unlawful. Plaintiff is informed and believes, and on that bases alleges herein,
11 that it is not typical for officers like Defendants Tatum and Huffaker to conduct routine
12 traffic infraction stops so far outside of their city's jurisdiction, unless that stop is a pre-
13 textual stop to conduct a criminal investigation into marijuana-related activities.

14 16. Upon contact with Plaintiff, Defendants Tatum and Huffaker did not write a
15 citation for touching the fog-line but instead immediately began a marijuana investigation,
16 asking Plaintiff if there was marijuana in the car. (**Exhibit C**)

17 17. Plaintiff informed Defendants he had marijuana in the car and that he was
18 bringing it to a dispensary in Sherman Oaks, California, called the Higher Path. Plaintiff
19 was carrying all necessary paperwork that existed at that time to show he was
20 transporting marijuana lawfully under state law and showed Defendants the
21 documentation that demonstrated the marijuana was legally cultivated and possessed.
22 This paperwork included evidence of the lawful origin of the marijuana as well as the
23 destination, and demonstrated the marijuana was legally grown under a permit issued
24 by the Mendocino Sheriff's Department. Defendant Huffaker told Plaintiff he did not have
25 any paperwork specifically allowing marijuana transportation, which Huffaker knew was
26 not available at that time to persons transporting marijuana. Plaintiff informed Huffaker
27 that he believed the documents he had allowed him to lawfully transport marijuana.

28 (**Exhibit C**)

1 18. During the detention Defendant Huffaker contacted Colin Stewart at the
2 Higher Path dispensary, who confirmed that Plaintiff was a member-cultivator for the
3 collective and that he was expected to be delivering marijuana in the next day or two.
4 Defendant Huffaker also contacted Plaintiff's attorney, Hannah Nelson, who confirmed
5 that Plaintiff was a licensed and lawful cultivator of marijuana in Mendocino County and
6 that he legitimately belonged to, and was a designated provider for, the Higher Path. Ms.
7 Nelson also offered to put Defendants Huffaker and Tatum in contact with a Mendocino
8 County official who would verify that Plaintiff was acting lawfully in transporting medical
9 marijuana. Defendants declined the invitation.

10 19. Defendants Huffaker and Tatum searched Plaintiff's rental car and found
11 forty-seven pounds of medical marijuana in the trunk. Without contacting a City Attorney,
12 Deputy District Attorney, or Magistrate, Defendants seized all of it. (**Exhibit C.**)

13 20. No citation was issued for failing to maintain the lane, though a citation was
14 issued for possession of marijuana. Criminal charges were never filed in connection with
15 the seized marijuana.

16 21. On January 4, 2017, Attorney Nelson, wrote a letter to Defendants RPDPS,
17 Tatum, and Huffaker, describing the stop and her interaction with Defendant Huffaker.
18 She also outlined all of the reasons why the marijuana was lawfully transported and
19 should not have been seized. (Nelson, Letter to Rohnert Park Police Department
20 (January 4, 2017), attached as **Exhibit D.**) She requested the marijuana be returned
21 immediately. Instead Plaintiff was notified that the marijuana had already been
22 destroyed. Plaintiff is informed and believes, and on that basis alleges herein, that no
23 destruction order was ever filed with the Sonoma County Superior Court relating to
24 Plaintiff's marijuana.

25 22. All of the above occurred without a warrant and without probable cause to
26 believe Plaintiff had committed a crime under California state law.

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1 23. At all times mentioned herein regarding the actions of Defendants Huffaker
2 and Tatum regarding the unlawful detention of Plaintiff and subsequent search and
3 seizure, Defendants acted intentionally and with reckless disregard for the truth.

4 24. Plaintiff is informed and believes, and on that basis alleges herein, that
5 Defendants City of Rohnert Park, RPDPS and Masterson were aware of and condoned
6 the pre-texual stops of motorists traveling on the highway outside of Defendant City's
7 jurisdiction in order to collect for themselves the substantial revenue that can be obtained
8 from forfeitures of marijuana and U.S. Currency.

9 25. Plaintiff is informed and believes, and on that basis alleges herein, that
10 Defendants Huffaker and Tatum initiated the stop based on information they had
11 received from an unnamed source, and that that information was deliberately withheld
12 from the Incident Report prepared by Defendant Huffaker and approved by Defendant
13 Sutter.

14 26. Plaintiff is informed and believes, and on that basis alleges herein, that
15 Defendants City, RPDPS and Masterson conducted an internal investigation relative to
16 the above-stated facts and that these Defendants did not counsel or discipline
17 Defendants Huffaker and Tatum in any way for their conduct. Plaintiff is informed and
18 believes, and on that basis alleges herein, that the final decision-makers of Defendants
19 City and RPDPS supported and ratified the conduct of Defendants Huffaker and Tatum
20 related to Plaintiff on December 29, 2016.

21 27. Plaintiff is informed and believes, and on that basis alleges herein, that
22 Defendants City, RPDPS and Masterson had a policy of promoting and giving awards to
23 its officers based on the amount of revenue each officer created by civil asset forfeitures.
24 Such a policy, promulgated by Defendants City and RPDPS, created an environment
25 that incentivized officers to make as many detentions and seizures of cash and marijuana
26 as possible without any regard for the constitutional rights of individuals contacted by
27 RPDPS officers. Plaintiff is informed and believes that said policy motivated Officers

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Huffaker and Tatum to unlawfully detain and search Plaintiff and unlawfully seize his personal property, to wit, forty-seven pounds of medical marijuana.

28. As to the conduct described herein, Defendants Huffaker, Tatum, Sutter, and Does 1through 25 acted willfully, wantonly, maliciously, oppressively, and with conscious disregard and deliberate indifference to Plaintiff's rights.

FIRST CAUSE OF ACTION

42 U.S.C. § 1983 – Unlawful Detention

Defendants Huffaker, Tatum, Sutter, Masterson, RPDPS, and Does 1-25

29. Plaintiff hereby alleges and incorporates by reference as though fully set forth herein all prior paragraphs of this complaint.

30. Defendants Huffaker, Tatum, Sutter, and Does 1 through 25 violated Plaintiff's constitutional right to be free from an unreasonable and unlawful warrantless detention, as guaranteed by the Fourth Amendment of the Constitution. Defendants, and each of them, lacked reasonable suspicion that Plaintiff had committed any crime or traffic infraction when they stopped and detained Plaintiff.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

SECOND CAUSE OF ACTION

42 U.S.C. § 1983 – Unlawful Search & Seizure

Defendants Huffaker, Tatum, Sutter, Masterson, RPDPS, and Does 1-25

31. Plaintiff hereby alleges and incorporates by reference as though fully set forth herein all prior paragraphs of this complaint.

32. Defendants Huffaker, Tatum, Sutter, and Does 1 through 25 violated Plaintiff's constitutional right to be free from unreasonable and unlawful warrantless searches and seizures, as guaranteed by the Fourth Amendment of the United States Constitution when Defendants searched the trunk of Plaintiff's vehicle and seized Plaintiff's marijuana. Defendants lacked probable cause to search the trunk of Plaintiff's vehicle and seize the marijuana.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

1 **THIRD CAUSE OF ACTION**

2 **42 U.S.C. § 1983 –Due Process**

3 **Defendants Huffaker, Tatum, Sutter, Masterson, RPDPS, and Does 1-25**

4 33. Plaintiff hereby alleges and incorporates by reference as though fully set
forth herein all prior paragraphs of this complaint.

5 34. At all times referenced above, Defendants, and each of them, deliberately
6 fabricated and mischaracterized evidence in order to justify and support the detention of
7 Plaintiff and the seizure of Plaintiff's marijuana all in violation of Plaintiff's right to due
8 process of law under the Fifth and Fourteenth Amendments to the United States
9 Constitution.

10 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

11 **FOURTH CAUSE OF ACTION**

12 **42 U.S.C. § 1983 – Substantive Due Process**

13 **Defendants Huffaker, Tatum, Sutter, Masterson, RPDPS, and Does 1-25**

14 35. Plaintiff hereby alleges and incorporates by reference as though fully set
forth herein all prior paragraphs of this complaint.

15 36. The acts of Defendants as described herein shock the conscience and
constitute an outrageous abuse of police power. As a result of said acts, Plaintiff was
deprived of substantive due process in violation of the Fourteenth Amendment to the
United States Constitution.

16 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

17 **FIFTH CAUSE OF ACTION**

18 **42 U.S.C. § 1983 – Procedural Due Process**

19 **Defendants Huffaker, Tatum, Sutter, Masterson, RPDPS, and Does 1-25**

20 37. Plaintiff hereby alleges and incorporates by reference as though fully set
forth herein all prior paragraphs of this Complaint.

21 38. Defendants deprived Plaintiff of his lawfully possessed property without
due process of law. Plaintiff's property was seized without giving him the right to contest

the confiscation of his property through a forfeiture proceeding or other procedure that would provide a fair hearing and due process of law.

39. Plaintiff is protected from government takings without due process of law by the Fifth and Fourteenth Amendment of the United States Constitution. By taking Plaintiff's property and not making an accurate report of the event, or initiating forfeiture proceedings that would provide a fair hearing for Plaintiff to contest the government taking of his property, Plaintiff was deprived by Defendants of procedural due process of law in violation of the Fourteenth Amendment.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

SIXTH CAUSE OF ACTION
42 U.S.C. § 1983 – Municipal Liability
The City of Rohnert Park and RPDPS

40. Plaintiff hereby alleges and incorporates by reference as though fully set forth herein all prior paragraphs of this Complaint.

41. As against Defendants City and RPDPS, Plaintiff further alleges that the acts and/or omissions alleged in this Complaint herein are indicative and representative of a repeated course of conduct by members of RPDPS tantamount to a custom, policy, or repeated practice of condoning and tacitly encouraging the abuse of police authority and disregard for the constitutional rights of citizens. Plaintiff is informed and believes that the acts or omissions of defendants as alleged herein regarding the unlawful detention and search and seizure were caused by (1) inadequate and arbitrary training, supervision and discipline of officers by RPDPS; (2) RPDPS's failure to promulgate appropriate policies with respect to traffic stops and warrantless searches and seizures; (3) the deliberate indifference of RPDPS to citizen's rights under the Fourth, Fifth and Fourteenth Amendments to the United States Constitution; (4) customs or *de facto* policies of RPDPS; and (5) ratification of such policies by final decision makers of the RPDPS. These failures and actions constitute deliberate indifference on the part of RPDPS to its obligations to insure the preservation and protection of an individual's

1 constitutional rights. Plaintiff is informed and believes, and on that basis alleges herein,
2 that Defendant City knew or should have known that its acts and omissions would likely
3 result in a violation of the Constitutional rights of a person in Plaintiff's situation, and
4 Defendant City's acts and omissions were a substantial factor in the deprivation of
5 Plaintiff's constitutional rights and the damages he suffered.

6 42. Plaintiff is informed and believes, and on that basis alleges herein, that
7 Defendants RPDPS and City had a policy of promoting and giving awards to its officers
8 based on criteria related to the amount of marijuana and U.S. currency seized for the
9 purpose of asset forfeiture actions, and that such policy created an environment that
10 incentivized RPDPS officers to make as many traffic stops as possible, within or outside
11 of their jurisdiction, in the search for people transporting marijuana, without proper
12 consideration of the constitutional rights of individuals contacted by RPDPS officers.
13 Plaintiff is informed and believes, and on that basis alleges herein, that said policy
14 motivated Officers Huffaker and Tatum to unlawfully detain and search Plaintiff, and
15 to unlawfully seize his marijuana.

16 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

PRAYER FOR RELIEF

19 WHEREFORE, Plaintiffs demand judgment against the Defendants and the
20 following relief:

- 21 1) For appropriate injunctive relief designed to prevent and deter future
22 unlawful detentions and seizure of property, during traffic stops, by agents
23 and employees of the City of Rohnert Park, Jacy Tatum, Joseph Huffaker
24 and other co-conspirators to be identified.
25 2) For compensatory damages, in an amount according to proof;
26 3) For general damages, in an amount according to proof;
27 4) For an award of punitive and exemplary damages against individual
28 defendants in an amount according to proof;

- 5) For an award for costs, expenses of suit, including reasonable attorneys' fees, pursuant to 42 U.S.C. § 1988;
 - 6) For such additional and further relief which the Court deems just and proper.

JURY TRIAL DEMANDED

Plaintiff requests a jury trial on all issues so triable.

Dated: December 20, 2018

Respectfully submitted,

/s/
ANDRIAN & GALLESON
Stephen M. Gallenson
Attorneys for Plaintiffs

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Huedell Freeman

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

Mendocino County

(c) Attorneys (Firm Name, Address, and Telephone Number)

Stephen M. Gallenson, 1100 Mendocino Avenue, Santa Rosa, CA (707)527-9381

DEFENDANTSCity of Rohnert Park, Rohnert Park Department of Public Safety, Brandon "Jacy" Tatum, Joseph Huffaker, David Sutter, Brian Masterson Does 1-25
County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|-----------------------------|--|
| 1 U.S. Government Plaintiff | 3 Federal Question
(U.S. Government Not a Party) |
| 2 U.S. Government Defendant | 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

PTF	DEF	PTF	DEF
Citizen of This State	1	Incorporated or Principal Place of Business In This State	4
Citizen of Another State	2	Incorporated and Principal Place of Business In Another State	5
Citizen or Subject of a Foreign Country	3	Foreign Nation	6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance	PERSONAL INJURY	PERSONAL INJURY	625 Drug Related Seizure of Property 21 USC § 881	375 False Claims Act
120 Marine	310 Airplane	365 Personal Injury – Product Liability	422 Appeal 28 USC § 158	376 Qui Tam (31 USC § 3729(a))
130 Miller Act	315 Airplane Product Liability	367 Health Care/Pharmaceutical Personal Injury Product Liability	423 Withdrawal 28 USC § 157	400 State Reapportionment
140 Negotiable Instrument	320 Assault, Libel & Slander	368 Asbestos Personal Injury Product Liability		410 Antitrust
150 Recovery of Overpayment Of Veteran's Benefits	330 Federal Employers' Liability			430 Banks and Banking
151 Medicare Act	340 Marine			450 Commerce
152 Recovery of Defaulted Student Loans (Excludes Veterans)	345 Marine Product Liability			460 Deportation
153 Recovery of Overpayment of Veteran's Benefits	350 Motor Vehicle			470 Racketeer Influenced & Corrupt Organizations
160 Stockholders' Suits	355 Motor Vehicle Product Liability			480 Consumer Credit
190 Other Contract	360 Other Personal Injury			490 Cable/Sat TV
195 Contract Product Liability	362 Personal Injury -Medical Malpractice			850 Securities/Commodities/ Exchange
196 Franchise				890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		891 Agricultural Acts
210 Land Condemnation	440 Other Civil Rights	HABEAS CORPUS		893 Environmental Matters
220 Foreclosure	441 Voting	463 Alien Detainee		895 Freedom of Information Act
230 Rent Lease & Ejectment	442 Employment	510 Motions to Vacate Sentence		896 Arbitration
240 Torts to Land	443 Housing/ Accommodations	530 General		899 Administrative Procedure Act/Review or Appeal of Agency Decision
245 Tort Product Liability	445 Amer. w/Disabilities– Employment	535 Death Penalty		950 Constitutionality of State Statutes
290 All Other Real Property	446 Amer. w/Disabilities–Other	OTHER		
	448 Education	540 Mandamus & Other		
		550 Civil Rights		
		555 Prison Condition		
		560 Civil Detainee– Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | | |
|-----------------------|----------------------------|---------------------------------|--------------------------|---|-------------------------------------|--|
| 1 Original Proceeding | 2 Removed from State Court | 3 Remanded from Appellate Court | 4 Reinstated or Reopened | 5 Transferred from Another District (specify) | 6 Multidistrict Litigation–Transfer | 8 Multidistrict Litigation–Direct File |
|-----------------------|----------------------------|---------------------------------|--------------------------|---|-------------------------------------|--|

VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Brief description of cause:**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. **DEMAND \$** CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S), IF ANY** (See instructions): JUDGE DOCKET NUMBER**IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)**
(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE

SIGNATURE OF ATTORNEY OF RECORD

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)."
 - II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 - (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
 - III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
 - IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
 - V. Origin.** Place an "X" in one of the six boxes.
 - (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket.

Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
 - VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
 - VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Federal Rule of Civil Procedure 23.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
 - VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
 - IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: "the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated."
- Date and Attorney Signature.** Date and sign the civil cover sheet.

File With:

RESERVE FOR FILING STAMP
CLAIM NO. C 2017 - 19

ROHNERT PARK

JUN 27 2017
Hand delivered
CITY CLERK

Copy: CMYK AcM
 REMIF: FILE: Dept. Masterson/
 CAR: Johnson

City of Rohnert Park
 ATTN: City Clerk's Office
 130 Avram Avenue
 Rohnert Park, CA 94928

**CLAIM FOR MONEY OR
DAMAGES AGAINST THE
CITY OF ROHNERT PARK**

All claims against the City for money or damages not otherwise governed by the Government Tort Claims Act, California Government Code Sections 900 et.seq., or other state law (hereinafter "claims") shall be presented within the timeframe and in the manner prescribed by Part 3 of Division 3.6 of Title 1 of the California Government Code (commencing with Section 900), as that Part may be amended from time to time, and as further provided in Section 2.44.020 of the Rohnert Park Municipal Code.

All claims shall be made in writing and shall contain the information required by California Government Code Section §910.

If additional space is needed to provide your information, please attach sheets, identifying the paragraph(s) being answered.

1. Name and Address of the Claimant:

Name of Claimant: Huedell Freeman

Mailing Address: P.O. Box 515

Philo, California 95466

2. Mailing address to which the person presenting the claim desires notices to be sent:

(Specify if different than Claimant's address listed above)

Name of Addressee: Chris P. Andrian Telephone: 707-527-9381

Mailing Address: Law Offices of Andrian & Gallenson

1100 Mendocino Avenue

Santa Rosa, California 95401

3. The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.

Date of Occurrence: Time of Occurrence:

Location:

Circumstances giving rise to this claim: SEE ATTACHED

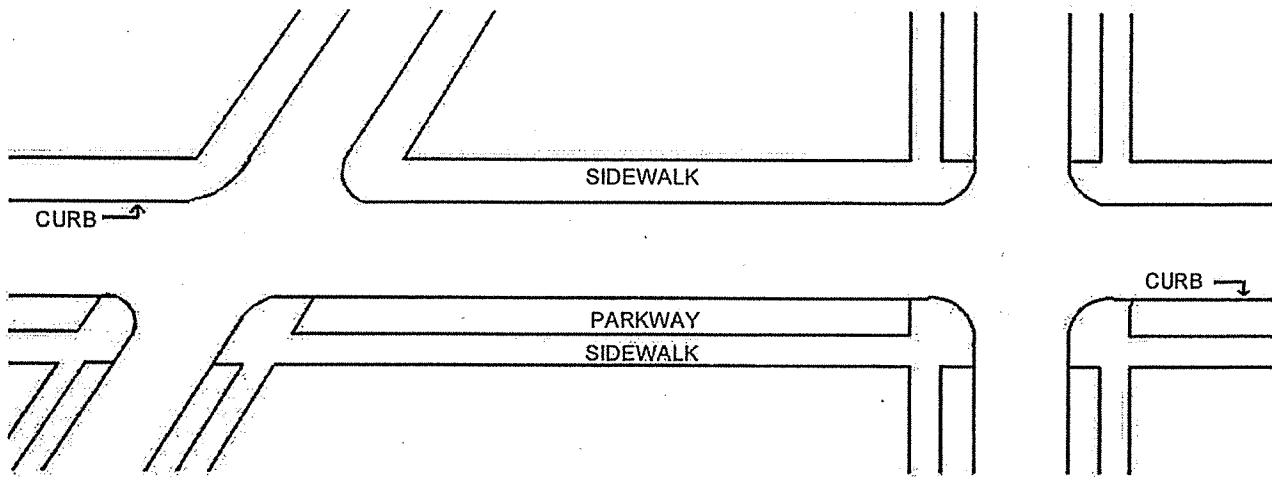
4. General description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of the presentation of the claim.

SEE ATTACHED

READ CAREFULLY

For all accident claims, place on following diagram name of streets, including North, East, South, and West; indicate place of accident by "X" and by showing house numbers or distances to street corners. If City/Agency Vehicle was involved, designate by letter "A" location of City/Agency Vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw City/Agency Vehicle; location of City/Agency Vehicle at time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1" and the point of impact by "X."

NOTE: If diagrams below do not fit the situation, attach hereto a proper diagram signed by claimant.



Warning: Presentation of a false claim with the intent to defraud is a felony (Penal Code §72). Pursuant to Code of Civil Procedure §1038, the City/Agency may seek to recover all costs of defense in the event an action is filed which is later determined not to have been brought in good faith and with reasonable cause.

All claims shall be verified by the claimant or by his or her guardian, conservator, executor or administrator. No claim may be filed on behalf of a class of persons unless verified by every member of that class as required by Section 2.44.030 of the Rohnert Park Municipal Code.

Signature:

Date: 6/22/17

5. The name or names of the public employee or employees causing the injury, damage, or loss, if known.

Joseph Huffaker (RP 439)

Brandon Tatum (RP 35)

David Sutter (RP 403)

6. If amount claimed totals less than \$10,000: The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed.

Amount Claimed and basis for computation:

If amount claimed exceeds \$10,000: If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case. A limited civil case is one where the recovery sought, exclusive of attorney fees, interest and court costs does not exceed \$25,000. An unlimited civil case is one in which the recovery sought is more than \$25,000. (See CCP § 86.)

Limited Civil Case

Unlimited Civil Case

You are required to provide the information requested above, plus your signature on page 3 of this form, in order to comply with Government Code §910. In addition, in order to conduct a timely investigation and possible resolution of your claim, the city requests that you answer the following questions.

7. Claimant(s) Date(s) of Birth:

Huedell Freeman: 09/11/1957

8. Name, address and telephone number of any witnesses to the occurrence or transaction which gave rise to the claim asserted:
-
-
-

9. If the claim involves medical treatment for a claimed injury, please provide the name, address and telephone number of any doctors or hospitals providing treatment:

If applicable, please attach any medical bills or reports or similar documents supporting your claim.

n/a

10. If the claim relates to an automobile accident: n/a

If applicable, please attach any repair bills, estimates or similar documents supporting your claim.

Claimant(s) Auto Ins. Co.:

Telephone:

Address:

Insurance Policy No.:

Insurance Broker/Agent:

Telephone:

Address:

Claimant's Veh. Lic. No.:

Vehicle Make/Year:

Claimant's Drivers Lic. No.:

Expiration:

JUL 28 2017

Paragraphs #3 and #4

On December 29, 2016, at 1:40 p.m., Sergeant Brandon "Jacy" Tatum (RP357) and Officer Joseph Huffaker (RP439) "were on duty" "in a marked Rohnert Park DPS Police Vehicle" traveling *northbound* on Hwy 101, near Cloverdale.

The Officers observed a vehicle traveling *southbound* that "moved to the right of its lane touching its right tires on the fog line and ... touched the fog line a second time."

Citing CVC 21658(a) ("failure to maintain lane"), the Rohnert Park DPS Patrol Vehicle crossed two northbound lanes; executed a sixty-mile an hour U-turn over the grassy medium, and moved into the slow lane to effectuate the stop.

Suspecting, then finding marijuana packaged in the trunk, the officers asked for and were provided documents identifying the origin of the marijuana (grown under Permit issued by the Mendocino Sheriff) and its destination: a Southern California dispensary, which Officer Huffaker confirmed on the scene.

Without consulting a City Attorney, a Deputy District Attorney or Magistrate, Sgt. Tatum and Officer Huffaker summarily confiscated the marijuana.

Claims:

1. The vehicle did not touch the fog line, and if it did, "touching the fog line [even twice] does not give the officer reasonable suspicion to justify the stop." (*United States v. Colin* (9th Cir. 2002) 314 F.3d 436, [interpreting CVC 21568(a)].)
2. The detention was prolonged, and the warrantless search and seizure was without probable cause. (*People v. Colvin* (2012) 203 Cal. App. 4th 1029 [medical marijuana grown in Humboldt may be transported to a dispensing collective in So. California].)
3. Rohnert Park *policy makers* condoned the pre-textual stop of motorists traveling on an interstate highway, outside the City's jurisdiction, because the potential revenue from forfeitures of marijuana and U.S. Currency was substantial.

Relief:

- A. Compensation for the loss of the marijuana.
- B. Declaration from the City that they will not allow its officers to engage in conduct outlined above.

Officer Huffaker and Sgt. Tatum were equipped with Body Cams that captured the majority of the incident. Sgt Tatum prepared a supplemental report.

THIS IS FORMAL NOTICE TO PRESERVE THE IMAGES AND AUDIO CAPTURED BY THE BODY CAMERAS WORN BY THE OFFICERS.

July 25, 2017



City Council

Jake Mackenzie
Mayor

Pam Stafford
Vice Mayor

Amy O. Ahanotu
Gina Belforte
Joseph T. Callinan
Councilmembers

Darrin Jenkins
City Manager

Don Schwartz
Assistant City Manager

Michelle Marchetta Kenyon
City Attorney

Karen Murphy
Assistant City Attorney

JoAnne Buergler
City Clerk

Betsy Howze
Finance Director

Brian Masterson
Director of Public Safety

John McArthur
*Director of Public Works and
Community Services*

Mary Grace Pawson
*Director of
Development Services*

Victoria Perrault
Human Resources Director

Chris P. Andrian
Law Offices of Andrian & Gallenson
1100 Mendocino Avenue
Santa Rosa, California 95401

Re: Claim Against the City of Rohnert Park

Dear Mr. Andrian:

As required by law, enclosed is a *Notice of Action on Claim* from the City of Rohnert Park rejecting your claim filed on June 27, 2017. Rejection or denial of this claim amounts to a legal decision that the claim will not be paid by the City of Rohnert Park in whole or in part at this time.

Since the City of Rohnert Park is self-insured and belongs to a governmental risk-sharing pool, the claim and the rejection notice have been forwarded to the Redwood Empire Municipal Insurance Fund (REMIF), the pool's administrator.

Sincerely,

A handwritten signature in black ink that reads "Caitlin Saldanha".

Caitlin Saldanha
Deputy City Clerk

Enclosures

cc: Chris Carmona, REMIF
Michelle Marchetta Kenyon, City Attorney

File: Claim File C2017-19

NOTICE OF ACTION ON CLAIM

TO: Chris P. Andrian
Law Offices of Andrian & Gallenson
1100 Mendocino Avenue
Santa Rosa, California 95401

NOTICE IS HEREBY GIVEN that the communication purporting to be a claim by **Chris P. Andrian (Law Offices of Andrian & Gallenson) obo Huedell Freeman** against the CITY OF ROHNERT PARK dated on June 22, 2017 and received in this office on June 27, 2017, was:

- (X) Rejected
() Rejected due to late filing
() Allowed
() Allowed in the amount of \$ _____ and rejected as to the balance
() Rejected by operation of the law

by the City Manager on July 25, 2017.

W A R N I N G

Subject to certain exceptions, you will have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a State Court action on this claim [see State of California Government Code §945.6]. Your time for filing an action in Federal Court may be less than six (6) months.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Please also be advised that, pursuant to Sections 128.5 and 1038 of the California Code of Civil Procedure, the City of Rohnert Park will seek to recover all costs of defense in the event an action is filed in the matter and it is determined that the action was not brought in good faith and with reasonable cause.

cc: Chris Carmona, REMIF
Michelle Marchetta Kenyon, City Attorney
Claim File – C2017-19



**CITY OF ROHNERT PARK
DEPARTMENT OF PUBLIC SAFETY**

POLICE AND FIRE SERVICES

Brian Masterson, Director

APPLICATION FOR RECORD INFORMATION**REPORT FEE \$10.00 *** EXACT CASH OR CHECK ONLY*****CASE#: CR 16-541Z Is this a Domestic Violence or Identity Theft report? Yes No (please circle)

1. REPORT TYPE: () Accident (Arrest *SEE ATTACHED) () Crime () Fire (\$10.00 for each report)
 () Calls for Service () Location History (\$5.00 for each printout)

2. LOCATION OF INCIDENT: Hwy 101 @ ASTIDATE 12/29/16 TIME 13473. PERSONS INVOLVED: (Driver, Passenger, Victim, Property Owner, Etc.)

<u>FREEMAN</u>	<u>HUEDELL</u>	<u>9/11/57</u>
LAST NAME	FIRST NAME	INITIAL
		DATE OF BIRTH
		RECEIVED

4. REASON FOR REQUEST: (Complete A or B below, sign and date)

MAY 22 2017

- A. I represent the individual on line 3 with his/her consent and I AM:
 () The Individual Named () The Individual's Parent
 () The Individual's Spouse () Insurance Agent
- The Individual's Attorney
 () Other: CITY OF RONHERT PARK

B. () I do not represent the individual on line 3. My request for information is based upon my belief that I am entitled to such information due to:

NAME (please print): CHRIS P. ANDRIAN, ATTORNEY AT LAWMAILING ADDRESS: 1100 MENDOCINO AVE, SR 95401HOME PHONE: 7075279381 WORK PHONE: 7075279381 CELL PHONE _____DRIVER'S LICENSE NUMBER: K0215076SIGNATURE: [Signature] DATE: 5/18/17AGENCY REPRESENTED (if any): ATTORNEY FOR HUEDELL FREEMAN

NOTE: Reports are processed within 10 working days. An incomplete request may delay our response. If we determine that the report is unavailable for release, we will notify you in writing or by phone (GOVT. CODE SEC. 6256).

DO NOT WRITE BELOW THIS LINE

Paid Amount Paid: _____ Receipt #: _____ by: _____

Disposition: _____ Date: _____ By: _____

Notes/Comments on redaction: _____

Incident/Investigation Report

Agency: Rohnert Park Public Safety

Case Number: 16-0005412

Incident Information

Date/Time Reported 12/29/2016 13:40	Date/Time Occurred 12/29/2016 13:40	Date/Time Found 12/29/2016 13:40	Officer (RP439) HUFFAKER, JOSEPH
Incident Location SB ASTI RD OFFRAMP / SB ASTI RD ONRAMP, CLO, CA 94928		Supervising Officer (RP403) SUTTER, DAVID	
Location Comments :@SB 101 AT ASTI			
Case Status 849 (B)(2) DETENTION		Disposition	

Charges

1	Charge Type State	Description (MISD) POSSESS MORE THAN 28.5 GRAMS OF MARIJUANA			Statute 11357 (B)(2)	UCR 35A	<input type="checkbox"/> Att <input checked="" type="checkbox"/> Com
Alcohol, Drugs or Computers Used <input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Computers		Location Type HIGHWAY/ROAD/ALLEY	Premises Entered	Forced Entry <input type="checkbox"/> Yes <input type="checkbox"/> No	Weapons 1. 2. 3.		
Entry		Exit	Criminal Activity				
Bias Motivation		Bias Target	Bias Circumstances			Hate Group	

Vehicles

Seq. # 1	Year 2016	Color SILVER	Style SEDAN, 4 DOOR	Make CHRYSLER	Model 300
VIN		License Plate Type	License / State [REDACTED]	License Year 0	Owner
Status NONE		Status Date 12/29/2016	Value		
Vehicle Notes					

ROHNERT PARK
Department of Public Safety

CONTROLLED
DOCUMENT
DO NOT BE
DUPLICATED

TO: Andrian E Gollensperger
BY: LLC
DATE: 5/26/17

Incident/Investigation Report

Agency: Rohnert Park Public Safety

Case Number: 16-0005412

Narratives

***** December 29th, 2016, Report 16-5412*****

During this incident Sergeant Tatum and I were equipped with an audio and video recording body worn cameras, which captured the majority of this incident.

FIRST OBSERVATIONS

Sergeant Tatum and I were on duty in a marked Rohnert Park DPS Police Vehicle traveling on Hwy 101 near Cloverdale when we observed a silver Chrysler 300 CA license [REDACTED].

As I was watching the vehicle it moved to the right of its lane, touching its right tires on the fog line. It continued to drive and followed a left hand bend in the road. The vehicle again drifted to the right side of its lane and its right side tires touched the fog line a second time.

Based on the violation of the California Vehicle Code 21658(a) CVC: failure to maintain lane we made an enforcement stop on the vehicle.

OBSERVATIONS AFTER STOP

We made contact with the driver who was identified as [REDACTED]
[REDACTED]

Upon making contact with [REDACTED] and the vehicle, both Sergeant Tatum and I could smell the strong odor of processed marijuana emitting from inside the vehicle. As I leaned closer to the vehicle the marijuana odor increased, which indicated the vehicle was the source of the odor.

As I spoke with [REDACTED] I asked him where he was traveling to. He told me that he was driving to the Bay area. I asked him what his was going to do there and he stated that he was visiting his land partner in Palo Alto.

I asked [REDACTED] if there was any drugs in his vehicle, specifically methamphetamine or heroin he responded "No sir" I asked if there was any cocaine in his vehicle he responded "No sir." I then asked him if there was any marijuana in his vehicle. He told me that there was some, when I asked him how much he responded "Uhhhh, I'm not exactly sure."

I asked [REDACTED] if he had transportation documents for the marijuana and he stated that he did. When I asked him a second time how much marijuana was in the vehicle he now stated that he believed it was about 20-30 pounds.

Incident/Investigation Report

Agency: Rohnert Park Public Safety

Case Number: 16-0005412

Narratives

████████ stated that they were driving it from his dispensary to a dispensary called The Green Cross in San Francisco then to another dispensary in Sherman Oaks called The Higher Path.

████████ told me that he had transportation documentation for the marijuana in a blue folder in his briefcase located in the vehicle.

Sergeant Tatum had a conversation with ██████████ during this time.

Refer to his supplemental Report

Based on my training and experience in seizing large amounts of processed marijuana bud in one vehicle, I was confident there was more than one ounce of marijuana bud in this vehicle. The amount of marijuana bud odor emitting was consistent a very large amount of marijuana bud inside. I have also smelled and seized small amounts of marijuana bud from vehicles and that odor was very different from the odor I was dealing with in this vehicle. Ounces or even grams of marijuana give off a lower and less intense odor unlike the overwhelming odor that pounds of marijuana bud give off.

Based on the overwhelming odor of processed marijuana emitting from inside the vehicle we conducted a search.

Upon searching the vehicle we located several bags in the trunk and inside was marijuana one pound bags. In total we located 45 pounds of marijuana bud packaged.

In an attempt to verify if the marijuana located within the trunk was medical marijuana being transported to a dispensary or licensed facility, I looked through the paperwork in the blue folder. ██████████ had his personal medical marijuana recommendation in the folder and did not have any transportation documentation.

████████ now stated that California law had not issued transportation paperwork. He stated that to his knowledge he could transport between dispensaries. However there was no documents stating that located.

████████ now stated that he was going to Higher Path Dispensary in Sherman Oaks first then Greener Path in San Francisco, despite originally telling me he was driving to the bay area and then later saying that he was driving going to Green Cross Dispensary today.

I asked how much marijuana ██████████ was transporting to Higher Path. He stated that "they haven't said exactly" and that it would vary and depending on several factors.

Incident/Investigation Report

Agency: Rohnert Park Public Safety

Case Number: 16-0005412

Narratives

I contacted [REDACTED] at Higher Path, I asked if he knew [REDACTED] and he stated he did. I asked if he knew if [REDACTED] was going to be delivering to him and he stated that he was. He stated that [REDACTED] would be arriving today or tomorrow and would be transporting he thought 30 units to him.

[REDACTED] asked if I could call his lawyer, I contacted his lawyer [REDACTED] via phone and had a conversation with her. I asked why [REDACTED] was transporting marijuana without any transportation documentation and if she had it. She stated that she assumed [REDACTED] was transporting marijuana legally but then told me she was surprised he didn't have marijuana transportation documentation. She also stated that she was currently going to the airport and would not be able to provide me with any since she was out of the office. She requested that I or [REDACTED] call her back later.

Indicators of Criminal Activity:

- No marijuana transportation documents
- Driver is a marijuana cultivator and passenger is from out of state
- Discrepancies between both subjects stories
- Story of which dispensary he is driving to first changing
- Originally stating he was driving to Palo Alto to meet his land partner
- Marijuana packaged for sale
- Stating he didn't know the quantity of marijuana in vehicle
- Later stating an incorrect amount of marijuana in the vehicle

Based upon the above items located, I issued him a citation for violation of 11357(b)(2) H&S: possession of over one ounce of marijuana.

The above items were photographed and seized as evidence.

[REDACTED] was released on his signed citation.

As I explained to [REDACTED] what he was being cited for he stated "You're cutting me a break." and he thanked me. I provided him a copy of the citation and informed him he could contact his lawyer later on as we concluded our conversation.

Approximately five minutes later I observed [REDACTED] now driving northbound on Highway 101 despite telling us that [REDACTED] was going to Palo Alto.

Incident/Investigation Report

Agency: Rohnert Park Public Safety

Case Number: 16-0005412

Narratives

End



Hannah L. Nelson
Attorney at Law

31452 Airport Road, Fort Bragg, CA 95437

(707) 962-9091 - hannahnelson@hannahnelson.net

Rohnert Park Police Department
500 City Center Drive
Rohnert Park, CA 94928

January 4, 2017

Sonoma County District Attorney
600 Administration Drive, 212 J
Santa Rosa, CA 95403

Re: Rohnert Park PD Case #16-5412

Sgt. J.C. Tatum Badge # 537, Ofcr. Joe Huffakar Badge #429, Christine Giordano, Charging D.A.:

I represent Huedell Freeman who was stopped on 12/29/16 at 13:43 on Highway 101 South Bound at Asti (notably not within Rohnert Park) for an alleged traffic violation.

Mr. Freeman, a licensed and lawful cultivator in Mendocino County, was lawfully transporting medical cannabis to a lawfully licensed dispensary for whom he is a member-designated cultivator, when he was pulled over by Officer Huffakar for allegedly crossing over a white line. Mr. Freeman not only disputes that he violated any traffic laws, but has indicated the following facts to me that support the conclusion that this was a pretext stop: Mr. Freeman was driving a rental car. Mr. Freeman had been travelling SB while the Officer had been travelling NB, considerably north of Rohnert Park (Asti), and crossed the meridian to go after Mr. Freeman who was not speeding and who states he was not swerving or driving in any unsafe manner whatsoever [Mr. Freeman is a mature gentleman who generally takes great care in his actions]. After asking for license and registration, **the very first question the Officer asked was whether Mr. Freeman had any marijuana in the vehicle.** Mr. Freeman was cited, but not for any traffic violation. The medical cannabis was confiscated and no receipt or claim form was given to Mr. Freeman. Mr. Freeman was cited for illegal possession of more than an ounce and ordered to appear on March 13, 2017.

Officer Huffakar was asked by my client to telephone me to confirm the validity of the transportation of the medical cannabis. Fortunately, Officer Huffakar did in fact call me and I informed him that Mr. Freeman was a licensed and lawful cultivator in Mendocino County that legitimately belonged to and provided medicine to the dispensary he was transporting to. I informed Officer Huffakar that I would gladly get the



Hannah L. Nelson
Attorney at Law

31452 Airport Road, Fort Bragg, CA 95437

[707] 962-9091 - hannahnelson@hannahnelson.net

Sheriff or Under Sheriff of Mendocino County on the telephone to confirm that information. I also informed the officer that he should call the dispensary to confirm the validity on that end. When the officer asked if Mr. Freeman had a transportation license, I informed the officer that such licenses are not yet issued by the state or in our local jurisdiction. The officer then asked if Mr. Freeman had transportation "authorization papers." I informed the officer that I did not know. What I meant was that I was not with Mr. Freeman at the time so I had no idea of what he had or did not have with him. I explained that I was not at my office that I was speaking from my hands free mechanism in my car as I was driving on my way to Santa Rosa airport to catch a flight, but I reiterated that I could easily call the Mendocino County Sheriff's Department to get him immediate confirmation and I again urged that the officer telephone the dispensary to confirm the legitimacy on that end. When the officer stated that Mr. Freeman had to have a piece of paper with transportation authorization and that a cultivation permit in Mendocino County was not good enough, I reiterated that he should call the dispensary and I stated that the law does not in fact require a transportation document since there is no transportation license at this time. The officer told me that he had to check with his Sergeant. I specifically requested that the officer either call me back directly or have my client telephone me as soon as the interaction was completed.

My client informed me that the officer did in fact speak to the dispensary and was able to confirm the validity of him as a cultivating member and that the cannabis was lawfully being transported to the dispensary for its patient members. I never received a call from the officer or my client, so much later, after my flight, I telephoned my client. My client informed me that he was not told to call me but rather was told to wait for my call to him.

Regardless of whether this was an illegal pretext stop, there is no legitimate basis for confiscating the medicine or for citing my client with illegal possession of over an ounce. There was an immediate verification of all aspects of the situation. Patients were and still are waiting for that medicine.

Attached is a letter from the dispensary as well as a copy of the valid Mendocino County cultivation permit.

Please expedite the return of the medicine. Please also do not refer this to the District Attorney's office for the charge in the citation. Should the matter be referred to the District Attorney's Office, I hope that the charging DA will consider carefully the facts I have presented in this letter and contemplate the resources it



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would take to prosecute this case when there is ample proof of the legitimacy of this situation. The District Attorney should be aware that we are also prepared to demonstrate that all other aspects of the law have been followed.

I would greatly appreciate a telephone call or email from someone at the Rohnert Park PD to inform me of the status of this situation. There is no reason to delay in the return of the medicine. On a personal note, coincidentally, I am the attorney that obtained the first court-ordered return of medical cannabis to the patient. The case, which began in 1996, went all the way up to the Supreme Court of California and back down for more than 3 years. I fought that case pro bono because I believed that patients should not have to rely on hiring an attorney to ensure the prompt return of their medicine. Though I no longer generally conduct litigation, I have a very personal and vested interest in making sure that the legacy of that decision continues to be upheld and respected.

Thank you for your careful and immediate attention to this matter.

Sincerely,
Hannah L. Nelson
Attorney for Huedell Freeman